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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Baldine-Brunel Paul

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EXAMINER

HUYNH, SON P

ART UNIT

PAPER NUMBER

2424

MAIL DATE

DELIVERY MODE

10/26/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/882,036	Applicant(s) PAUL ET AL.	
	Examiner SON P. HUYNH	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,8,24-31,33-39,41 and 42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8,24-31,33-39,41 and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/13/2010 regarding 112, first paragraph have been fully considered but they are not persuasive.

With respect to Applicant's argument that examiner indicated that the independent claims would be allowable with the limitations from claim 6 (page 11, lines 12-13), the Examiner recalls that during the telephone conference, Examiner suggested to add limitations from claim 6. However, Examiner will update search when official amendment is received.

Applicant further argues support is found in the specification on page 10, lines 3-19 for the concept of "wherein the additional high priority frames are low priority frames having a high priority level added after encoding."

It is noted that page 10, lines 3-19 describes in one embodiment, video-coded frame is buffered and transmitted as high priority if the network has capability to transmit frame as high priority. If not, the frame is transmitted as low priority (this embodiment does not describes selecting type of frame to be sent based on network's capability. It is silent about "additional high priority frames are low priority frames having a high priority level added after encoding".

Page 10, lines 15-19, describes "frame has to be recorded as a high priority frame" or "the frame may have been coded at both priorities (high and low) in parallel,

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and the frame with the desired priority may be chosen at a later time." Thus, the frame is already encoded with priority level (high or low) and recorded. There is no support for "additional high priority frames are low priority frames having a high priority level added after encoding." as recited in the claims.

In addition, as discussed in the previous office action, the specification, page 8, lines 14-20 describes "the priority level may be added to a video-coded frame after the frame is encoded." However, this limitation is described as "in other embodiments". Page 8, lines 14-20 (or nowhere in the specification) describes "wherein the additional high priority frames are low priority frames having a high priority level added after encoding."

It is further noted that each of dependent claims recites "encoding a plurality of frames as either high priority frames or low priority frames;" Thus, it appears that high priority level is already added when encoding so that the frame is identified as "high priority" or "low priority". The phrase "in other embodiments" in page 8, line 17 of the specification, appears to refer to embodiment where high priority and/or low priority is not added when encoding the frames. If the priority level is not added in the "other embodiments", the priority level is not determined after encoding. So, it does not support the claimed feature "additional high priority frames are low priority frames having a high priority level added after encoding".

It is further noted that adding priority level to frame after encoding is well-known in the art. For example, Joseph (5,144,425) or Machida et al. (US 5,781,561: figures 3-4).

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For the reasons given above, rejections on the claims are discussed below.

Claims 6, 9-23, 32, 40 have been canceled.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-5, 7-8, 24-31, 33-39, 41-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1, 24, 27 and 35 contain subject matter "encoding a gradually increasing amount of additional low priority frames as high priority frames until less than the threshold amount of low priority frame are being lost, wherein the additional high priority frames are low priority frames having a high priority level added after encoding." which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification does not support "wherein the additional high priority frames are low priority frames having a high priority level added after encoding." is discussed in "response to arguments" above.

The specification neither support the limitation " encoding a gradually increasing amount of additional low priority frames as high priority frames until less than the threshold amount of low priority frame are being lost". Instead, the specification, figure 7 and page 11, lines 20-25, merely describes "if more than a threshold number of low priority frames have been lost (704), then an additional number of the frames may be encoded as high priority frames than is dictated by the transmission priority algorithm discussed above. These additional high priority frames may be encoded at a lower quality than is generally used for high priority frames."

Claims 7, 33, 41 contains subject matter "encoding a plurality of frames as either high priority frames or low priority frames..." and "encoding as high priority frames all video frames that are to be transmitted to yield coded frames", which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification, in one embodiment (i.e. figure 7, page 11, lines 10-25) discloses "encoding a plurality of frames as either high priority frames or low priority frames", and in another embodiment (i.e., figure 6, page 10, line 28-page 11, line 9) describes "encoding as high priority frames all video frames that are to be transmitted".

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However, the specification does not describes these features are used together in one embodiment. It is further noted that two limitations "encoding...either high priority frame or low priority frames" and "encoding as high priority frame all video frames..." conflicts to each other.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON P. HUYNH whose telephone number is (571)272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/
Primary Examiner, Art Unit 2424

October 20, 2010